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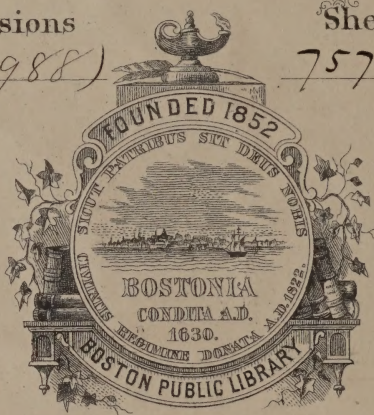
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Accessions

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Received. Dec. 3, 1891

ARGUMENT
OF
GEO. O. SHATTUCK,

BEFORE THE
JOINT STANDING COMMITTEE ON TAXATION,

AGAINST A
BILL TO RAISE THE TAX ON THE PREMIUMS OF INSURANCE COMPANIES OF OTHER COUNTRIES
FROM TWO PER CENT. TO FOUR PER CENT.,

MADE AT BOSTON, MAY 5, 1882.

BOSTON:
WRIGHT & POTTER PRINTING COMPANY, 18 POST OFFICE SQUARE.
1882.

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Under the pressure of the great civil war in 1862, our legislature imposed a tax of four per cent. on the business of insurance companies of other countries. That law remained on the statute books for ten years. At the end of that time, upon the petition of a large number of merchants, and after a very full hearing before a very able committee, that law was repealed. You are asked to-day to restore it. It is said that the tax was repealed at the special session of the legislature after the great fire, — a session of hasty and often unconstitutional legislation, and that therefore the repeal is not entitled to much weight. That statement, Mr. Chairman, is not true. That law was repealed before the great fire. It was repealed on the fourth day of May, 1872, after a prolonged and careful discussion; and one of the reasons given for the repeal was that our insurance in Boston was so local that a great fire might bankrupt all our home companies, and that it was therefore desirable to encourage foreign insurance capital in the Commonwealth. Less than eight months after that law was repealed that prediction was verified, and the wisdom of the legislation was justified. To-day, at the request of nobody, against the remonstrance of hundreds, I may perhaps say thousands, of the ablest business men in the Commonwealth, it is proposed to place again upon our statute books that legislation which grew out of the pressure of the war, which was wrong in theory, and which is directly contrary to all the principles upon which our legislatures have proceeded during the last ten years in reforming our system of taxation.

During the war business was taxed because we did not know where else to look for funds. Business was taxed by the general government, — manufacturing business, railroad business, insurance business, life insurance and fire insurance business, banking business, every kind of business was taxed under these circumstances without much regard to the permanent influence

of the taxes upon the business of the country. But the legislatures, by slow steps, but sure, have been gradually repealing all those taxes, until the treasurer of the Commonwealth was obliged to admit here yesterday that the existing two per cent. tax was the last tax remaining on the statute books upon the business of the Commonwealth.

I must correct now one statement which was made by the State treasurer in his argument here yesterday, and that was that other States and other countries were looking about for new sources of revenue, and that laws similar to this were being enacted in other countries. I desire to say that there is not the slightest foundation for that statement, so far as it is applicable to this case under any wise administration. It is true that the increased expenses of government are calling for new sources of revenue; but in England, where this subject is probably considered more seriously and more wisely than in any other country, you cannot find an instance, you cannot find in a budget for the last ten years a single attempt to tax business as it is proposed to tax it in this case. They tax property, the accumulations of business; they tax income, which has been saved from business; and they tax those classes of business which it is believed to be for the public interest to repress rather than promote, such as distilling and brewing, and interests of that kind, but you cannot find by a wise and intelligent government a single instance during the last ten years of a tax imposed, except in an emergency, upon business which it is desirable to promote. There should be no tax upon the processes of accumulation. And why? Simply because at this period in the world's history, more than in any other, in consequence of the easy communication and the rapid movements of business, the moment you attempt to tax a process of accumulation, to tax a business, it will take wings and leave you, and the tax cannot be collected. There is a power higher than the power of the legislature, a power higher than the power which you represent, which prevents any substantial receipts from such taxation, while the effect of it on the business of the community is always disastrous. And it is better, far better, that the State tax should be levied openly, that you should

spread it all over the property and the income of the people of the Commonwealth, that the people should know exactly what they are paying, than that you should attempt to impose special taxes upon certain branches of business and run the risk of crippling them or driving them from the Commonwealth.

This fact has been recognized by the Commonwealth, and during the last few years the tax on savings banks has been reduced from three-fourths to one-half of one per cent., and the whole tax has been taken from their mortgages. The tax on life insurance last year was reduced from one-half to one-fourth of one per cent., and you have gone on, step by step, until to-day a large part of our taxes are to be collected fairly and openly from the whole property of the Commonwealth. The government of the United States has repealed all taxes of the class proposed here, except the national bank tax, which will probably be soon repealed. This Commonwealth has repealed nearly all taxes of this class, and the present two per cent. tax is believed to be the only tax upon business which remains upon our statute books.

I have stated that legislation upon this subject will be futile. It has been said, and I have no doubt said with truth, this will not drive these insurance companies out of the Commonwealth. And it is quite true that these companies which are established here with their agencies will probably hold their own against the companies of this Commonwealth, taxed as they are. It has also been said that it will not probably at present much increase the rates of insurance, and perhaps not at all, and probably that is substantially true; but the real considerations bearing upon this question have not been considered.

The question is not whether you can hold these companies here, but whether you can bring into the State that additional insurance capital which the business interests of the Commonwealth require while this hostile legislation is upon the statute books. When a foreign company is considering whether they will establish an agency in Massachusetts, or in New York, or in other States, the fact that there is an odious discriminating tax against the insurance companies of other countries in Massachusetts will settle the question, and it was for that reason

that in 1872 this law which you are now asked to pass was repealed. From 1862 to 1872, under the 4 per cent. tax, very few, only seven foreign companies, and those not strong ones, came into this Commonwealth, while since that tax was repealed, between 1872 and to-day, twenty foreign insurance companies, all of them strong companies, if the report of our insurance commissioner is to be believed, have been brought into this State. If, therefore, you desire to bring insurance capital into this Commonwealth, and no man is so unwise as not to desire to have all the business which can be done here brought here, you must not place this law upon the statute books.

In the second place, if you are after revenue, as the counsel for the home insurance companies has suggested, it is very easy to put your hands in the pockets of these foreign companies and take \$25,000 a year, "a mere pittance," and put it into the State treasury. But, gentlemen, to-day you are collecting more money from the foreign insurance companies under your 2 per cent. tax than you could have possibly collected to-day from your 4 per cent. tax if it had remained on the statute books. You may take a little more money from the processes of accumulation, but every dollar that you take costs you more than it comes to. The little State of Connecticut, with a lower tax on insurance than we have in Massachusetts, collects annually over \$500,000 from her insurance business, and it is a moderate tax too. They do not tax these large domestic stock companies half as much as Massachusetts does, and Connecticut has not one-fifth the wealth of Massachusetts, and yet Massachusetts collects only about \$250,000 or \$260,000 from this source. In proportion to the wealth of Connecticut, Massachusetts hardly collects one-tenth part as much tax from this source. It is an illustration of the difference between the effect of wise and liberal legislation and the short-sighted legislation by which you put your hands in the pockets of business men at the risk of driving them out of the Commonwealth or of keeping outsiders from coming into the Commonwealth.

MR. BROWN. Mr. Shattuck, do you know how many of these 27 foreign companies are doing business in Connecticut?

Mr. SHATTUCK. All of them, I believe. They have insurance enough in Connecticut. I am not here to represent the Massachusetts companies. I happened at the time of the great fire to appear before the committees of the legislature with reference to insurance and to take part in promoting the legislation of that time, and also had some experience in winding up some of the companies, and, in my judgment, if the Commonwealth of Massachusetts had levied but one-half her actual tax on the insurance companies from that day to this, she would have received twice as much money into her treasury from that source. There is no kind of business that can take to itself wings and fly away so easily as insurance business. You can start an insurance company on the top of Blue Hill or Mount Washington if you please; it can send out its agents all over the United States. Insurance is more sensitive to the influence of taxation than any other business.

I have said that the proposed tax will keep these insurance companies out of the Commonwealth. You will not collect so much tax in the next ten years if you pass this law as you will if you fail to pass it; but that is not the worst of it. Men of business have come up here and earnestly remonstrated against the passage of this bill. And why? It is because this foreign capital is needed to-day in Massachusetts. It is because these companies, spreading all over the world as they do, can afford to take more hazardous risks than our home companies with their local business can afford to take, that the merchants desire to retain this class of business in the Commonwealth.

The losses of the foreign companies, from 1865 to 1869, were 62 per cent. of their premiums; of the home companies, 31; Between 1874 and 1878, the foreign companies lost 46 per cent.; the home companies, 36. In 1879 and 1880 the foreign companies lost 59 per cent; the home companies, only 28. There is a vast amount of property of a hazardous nature which must be insured, or the business affecting it cannot be carried on, because the men who do it must have credit, and they cannot have credit unless they have insurance, and insurance cannot be had in the companies of this Commonwealth or of this country. It was said here by one of the counsel on the other side, that

the security of insurance must depend on the percentage of the assets of the insurers as compared with the amount at risk, and that a company having 2 per cent. of assets is stronger than one having 1 per cent. of assets. That is not true absolutely. There is another element. That element is the one of distribution of risks. A company with assets amounting to only 1 per cent. on the amount of its insurance may be stronger than a company having 10 per cent. of the amount of its insurance, if the risks are more widely distributed.

I brought one gentleman here who told me that he paid \$25,000 a year for insurance, and that he could not find insurance for all his property, and he was suffering on account of it. He came up here, but when he heard the home companies attacking the foreign companies, he said: "I cannot take any part in this controversy, I want insurance from all these companies, and if I say a word here against the home companies I lose there; if I say a word against the foreign companies, I lose there; I must not speak here." And away he went. But he was anxious to have more capital here, and more of this widely distributed capital in insurance — very anxious. His credit was affected by it. Why, a president of one of our insurance companies told me, the other day, if things went on as they were, the insurance capital in Massachusetts and outside of it being reduced in proportion to the amount of business done, the credit of the merchants of Boston would suffer from the mere want of insurance; and yet, you propose in the light of those facts, to discourage the coming here of other companies, which I will not say are stronger companies, — because I do not believe, so far as I can understand it, that any companies taking into account the amount of business they do: taking into account their vigilance and caution in insuring, — are stronger to-day than our Massachusetts companies.* But there are other and different kinds of insurance companies. There are companies with risks more widely distributed; there are companies which can afford to take hazardous risks which our Massachusetts local companies would not dare to touch, and ought not to touch; and those risks we wish to have taken by these foreign

companies, which, as I have already said, by reason of the wide distribution of their business, can afford to take them.

There is another class of business to be considered. With our intimate relations to New York, with our telegraphic wires making it possible to communicate as easily with a New York firm as you can with your neighbor in the next door, with some of our larger firms having telegraph wires of their own, the questions whether merchandise when imported shall come to Boston or New York, is a question depending often upon $\frac{1}{8}$ or $\frac{1}{10}$ of 1 per cent. in the expenses. The question whether merchandise shall go to Boston or to New York, may depend simply on the cost of insurance. The competition is so great in some kinds of merchandise, that I understand they are insured for even less than cost. I mean to say that the insurers make nothing. But the merchants must have insurance; it is vital to the credit of the merchants that they should have it, and the competition between Boston and New York and other cities is sharp and close, and it is that very business, gentlemen, which will be injured by this tax. The foreign companies will say, "We do not make 2 per cent on the business now; we do not make 1 per cent. on it now, and if you add this 2 per cent. to the tax we shall lose on every dollar that we take, and we cannot afford to take these risks on merchandise." And this is the reason, gentlemen, why these merchants come here earnestly and anxiously as I know they do, to remonstrate against this act. That is the reason why the merchants ask you not to do anything which will make the burden on insurance heavier than it is now or make the difficulty of obtaining insurance greater than it is to-day.

But there is another reason why you will not secure this tax permanently. I suppose that these companies that have agencies here will keep them here, but insurance can be effected by our leading merchants and bankers, who have a reputation for honesty and credit, in whose cases there is no moral risk, as the insurers call it, just as well through companies in New York and London by telegraph and by cable as they can in Boston. Now, you propose to make a man who takes \$100 worth of insurance pay \$4 into the treasury of the Commonwealth. But

he can telegraph to New York or to London and get his insurance there less the four per cent., and some will certainly do it. Some firms would save \$1,000 or \$1,200 a year simply by effecting their insurance in that way. It is inconvenient, but they can do it. A large amount of insurance, gentlemen, to-day, is effected in the city of Boston by cable and by telegrams to companies who have no offices in Boston, and the tendency of this legislation will be to increase the amount of insurance which will be effected in that way. I venture to predict that in five years, if this law goes on the statute books, that that amount will be so considerable that, for this and other reasons, you will get less revenue with your four per cent. law than you would with your two per cent. law. With railroads and telegraphs, as we now have them, you may vote laws to tax business, gentlemen, but you cannot make your business to stay here to pay the tax. Business will go where it can be done the most economically. My friend, the State treasurer, formerly tax-commissioner, has been accustomed to consider these questions, with his great fidelity and vigilance, for the interests of the Commonwealth, purely as questions of taxation. I am very glad, indeed, that he came here and stated so clearly one view of this case, but it is your duty as legislators to look over the whole Commonwealth,—to look at the effect of taxation on business, and not simply to the question of how you can to-day get a certain amount of money into the State treasury. Every tax on business, and any legislation affecting business or social life, is much more far-reaching than we are accustomed to suppose. It is said that statutes in England, passed a century ago for the simple purpose of relieving distress, have had a material effect on a large part of the social life of England, and a very damaging effect. I do not care to waste your time, but I would like to refer to one piece of legislation in relation to insurance companies which was passed in 1873. They are taxed by that act as other corporations are taxed,—a tax which works admirably as applied to railroads and manufacturing companies, but, in my opinion, very badly as applied to insurance companies, and they are exempted from taxation on bank stock. The legislature said, if you invest your funds in bank

stock, you need not pay as to that. That all seemed very well,—it seemed like a reduction of the amount of the tax,—a concession to the insurance companies. But what was the effect of it? Why, the insurance companies in their struggles immediately said, "We must save what taxes we can," and they invested in bank stock, and the savings banks had the same exemption, and the insurance companies and the savings banks, therefore, compete for bank stocks, and put the bank stocks up higher than anything else, and then the banks lose money, their reserves are diminished, and the market for the sale of Massachusetts bank stocks does not extend outside of New England; and although bank stocks to-day, perhaps in consequence of the reduced general rate of interest, may stand as high as they were ten years ago, they are not comparatively anything like as valuable; and if there should come a panic, or if there should come a great fire and all the insurance companies should be compelled to force their bank stocks on the market, where would they go to? How did it work three or four years ago at the time of the panic in the savings banks? The savings banks had been encouraged to put their money in the bank stocks, and there came a panic and the run on the savings banks, and they offered the bank stocks, and down they went. Now, if you had passed a law providing that property invested by insurance companies in government bonds should be exempt from taxation because government bonds have paid one tax, every man who buys them takes that into account in fixing the value; they only pay to-day $3\frac{1}{8}$ per cent, while other investments are paying almost five; if, I say, you had passed a law saying that any insurance company investing in those shall, to that extent, be exempt from taxation, the effect would have been to strengthen these insurance companies. You will find the strong insurance companies in other States show two or three millions of government bonds at the head of the list of their assets, and I have no doubt when their agents run about the country they point to this fact as proof of strength. No matter what the panic is, no matter how many men rush to sell them, there is a market for government bonds all over the world. The insurance companies

to-day, if such a law had passed, would have been a great deal stronger than they are now, and you would have had just as much money from taxation. I merely refer to that as an illustration of the effect of a bill which is intended merely for the purpose of taxation on the business interests of these corporations. They have not all invested in bank stocks; some of them did not do it in order to save taxes, and probably have made money as a result, but some of them did, and they have suffered more or less. I might run over the whole field. The moment you touch business — the processes of accumulation — by any system of taxation, at that moment you set in motion a train of causes the effects of which you never can foresee.

Now, I do not suppose I have told you half the effects of the proposed law. I have told you three or four of them. One of them is that business will be done directly with insurance companies out of the Commonwealth without the intervention of agents, so that you cannot tax them; that is one tendency. Another tendency is to deter the coming of other companies into this Commonwealth; that is another tendency of this legislation. Another tendency, as I have already said, is to make them more unwilling to take the most hazardous class of insurance; that is another dangerous tendency of this legislation, and when in five years from now you come to reckon up the account, it will turn out that the Commonwealth has actually received into its treasury the pittance of \$25,000 a year, and the chances are ten to one it will be less than it would have had under the present law, and the damage to the business interests of this Commonwealth, to merchants struggling and competing with their neighbors, may be counted by hundreds of thousands.

MR. BROWN. I would like to know if you have drawn a bill which carries out the ideas which you have expressed to the Committee?

MR. SHATTUCK. No; I didn't have any suggestion to make. I hoped they would simply report that the bill should not pass. That is what we should like.

MR. BROWN. I know; but if your view of the matter is correct, a bill ought to be reported modifying all the insurance

tax of the State in order that we may have the benefit of this increased capital and advantage of business.

Mr. SHATTUCK. I haven't the slightest doubt, Mr. Chairman, that there ought to be; but I am not here now to take the time of the Committee in the discussion of that. I understood the Chairman to say yesterday that they didn't desire to hear discussions on that question. It is so very late in the session that it would hardly be practicable for the house to give it an adequate discussion, and, therefore, I have endeavored to confine myself to this bill. I did propose at first, and until the suggestions were made by the Chairman, and until I heard the argument on the other side, to go into this whole subject of the insurance taxation of Massachusetts, to show how it was working with reference to foreign insurance companies, to show why the state of things, which I briefly described in my opening,—that is, that twenty out of forty-four insurance companies had gone out of business when every merchant says we want more insurance capital,—I did propose to go into that question, and to discuss it broadly; but taking the suggestion of the Chairman, and recognizing the fact that it is late in the session, and also recognizing the fact that the Committee, by deciding not to send it to a commission, did not think it worth while to initiate an investigation of that kind, I decided not to make the full argument that I intended, but merely to show that this law—this attack upon business—is one which has already been passed upon by the legislature, after ten years' of experience under it, by a very able committee, after a discussion much more thorough than it is possible for us to have at this time. We might stop there. We might say this question has been decided, and now, at the end of this session, it is not worth while to revive it. And another thing which my friend has suggested, which I have already stated, and another fact of vital importance is, that nobody asks for this legislation except the State treasurer, who does not pay any more taxes than the rest of us; nobody asks for it. And not only does nobody ask for this tax, but we have thousands of the ablest and wisest men, and the largest tax-payers in this Commonwealth, coming here and remonstrating against it. Those are two reasons. Now, a third reason

is, that to impose this tax is taking a step backwards, and, I am proud to say, it is the first step backwards; but you have not passed it yet, and, therefore, it is not a step backwards. If you do pass it, it will be the first step backwards that has been taken on the subject of taxation since 1862, and I do not believe the legislature will pass it.

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